

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sevigny et al.
Serial No.	10/533,544
Filing Date	January 20, 2006
Group Art Unit	1657
Confirmation No.	4538
Examiner	Wood
Title	SOLVENT FOR CHROMOGENIC SUBSTRATE SOLUTION
Attorney Docket No.	074818.2

Cincinnati OH 45202

August 12, 2008

DECLARATION OF STEPHEN ROEMER, Ph.D.
UNDER 37 C.F.R. §1.132

1. I am employed as a Senior Manager of Product Development by Thermo Fisher Scientific Global Chemicals, the Assignee of the subject application. I have 20 years of experience with biological reagents, as disclosed in the application.
2. I have read and understood the outstanding Office Action and the Klopfenstein reference and understand the Examiner's position.
3. I respectfully disagree that Klopfenstein either anticipates the pending claims or renders them obvious. Klopfenstein teaches a nonaqueous cleaning solvent that contains at least 80% cyclic terpenes. The claimed solvent is a microemulsion, which by definition, requires water as a component. Thus, the claimed solvent is aqueous. A person of ordinary skill in the art would not be motivated to use and would not predict the use of Klopfenstein's cleaning solvent, because s/he would appreciate that such a high concentration would, in the subject application for a chromogenic substrate for detecting the presence of a lacZ gene and/or lacZ gene activity, would render the claimed solvent inoperable for its intended purpose. Specifically, 80% cyclic terpenes in a solvent would result in large pores/holes forming in the capsid walls of the bacteria used in the biological assay for detecting the presence of a lacZ gene and/or lacZ gene activity. These holes would lead to bacterial death, thus killing the bacteria in which activity is to be detected.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the subject application or any patent issued thereon.

Date August 12, 2008

Stephen Roemer
Stephen Roemer, Ph.D.

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